

aluminum is be absent from the disclosed experiments. There is nothing in Ghemecker that suggests can be operated free of a precipitation tank, and, in fact, Ghemecker mentions that

Gehmecker teaches free acid ranges of 0.5 to 2.5 points in claim 1. Therefore, this is a clearly less acidic solution than is presently claimed.

Thus, this rejection must be withdrawn.

Claims 41-61 were rejected under 35 U.S.C. §103(a) over Schubach. Applicants respectfully traverse.

The Examiner fails to allege that Schubach discloses treating a metallic surface comprising at least 5% by weight of at least one of aluminum or an aluminum alloy as claimed, can be processed. Thus, a prima facie case of obviousness has not been established.

Furthermore, Applicants emphasize that Schubach does not disclose the claimed sodium/potassium content nor can one discern the claimed alkali metal contact from Schubach, as the nitrate of Schubach may be provided as an alkali nitrate, but the nitrate is present in amounts from 0.5 to 20 g/L, and, furthermore, layer silicates may be added that contain lithium (see col. 4, lines 1-17). There is no clear indication from the cited references that one should perform the claimed process using a composition with the recited features, certainly not without a precipitation tank.

Since each and every feature is not taught or suggested by the cited references, all rejection should be withdrawn.

Claims 41-61 were provisionally rejected for obviousness-type double patenting over claims of USSN 10/467,850, which is now abandoned, so this rejection should be withdrawn.

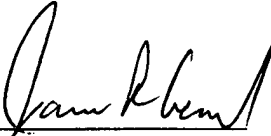
Claims 41-61 were provisionally rejected for obviousness-type double patenting over claims USSN 10/555,929. The '929 application is a later-filed application, and if a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, i.e., the present application, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. Applicants do not concede that the '959 Application should be rejected on other grounds, nonetheless, the Examiner has rejected that application on other grounds which Applicants traverse and will address during the prosecution of the '959 application.

In view of the foregoing, allowance is respectfully requested.

The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-0624, under Order No. DNAG-297-US.

Respectfully submitted

FULBRIGHT & JAWORSKI L.L.P.

By 
James R. Crawford
Reg. No. 39,155

666 Fifth Avenue
New York, New York 10103
(212) 318-3000